

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

EUGENE YAZZIE and
PHYLLIS YAZZIE,
on behalf of themselves
and all others similarly situated,

Plaintiffs,

v.

No. 1:14-cv-00555-JAP-SCY

GURLEY MOTOR CO. and
RED ROCK INVESTMENT CO.,

Defendants.

**ORDER GRANTING IN PART AND DENYING IN PART
PLAINTIFFS' MOTION TO COMPEL**

THIS MATTER having come before the Court on the Plaintiffs' Opposed Motion to Compel Defendants to Respond to Plaintiffs' Discovery and to Impose Sanctions (ECF No. 114) and the Court having considered the Motion finds that it should be granted in part and denied in part. The Court held an extensive hearing on Friday, March 18, 2016 in which the Plaintiffs' discovery requests were individually reviewed. At the hearing, the Court entered oral rulings and asked the parties to submit a stipulated order memorializing those oral rulings. The Court now enters this stipulated order that the following information shall be produced by April 8, 2016:

1. For all members of the TILA class:
 - A. Any credit applications (a/k/a buyer statements);
 - B. Any application for liability insurance made to Southwest General Insurance (SWGI);
 - C. The front of the Motor Vehicle Installment Contract and Security Agreement.

2. A copy of the note payable to the affiliate noted at Yazzie-Gurley 000311.
3. Defendants shall produce a list of those persons in both the UCC class and the TILA class who made either their down payment or their first regularly scheduled payment by check. Defendants shall produce a list stating the date of the check, the amount of the check, and the check number. Insofar as the first regularly scheduled payment was not made by check, then Defendants will review their records to attempt to determine if any subsequent payment was made by check. If any subsequent payment was made by check, then Defendants will provide the date and amount of that check. That production will be made by April 8, 2016. After review by Plaintiffs' counsel, Defendants shall request copies of the checks from the bank. Any charges made by the bank for procuring copies of said checks will be split equally by the Plaintiffs and the Defendants.
4. For the TILA class, a list identifying all members' employers, if known; and any person who has purchased liability insurance from SWGI, the rate class, whether the person was placed in a business use rate class and whether the rate class was based on business use or distance.
5. The parties shall confer with regard to the list in the previous paragraph and the list already produced concerning UCC class members to address the possible inconsistencies identified by Mr. Mattison, to wit: customers who appear to have SWGI insurance, but were listed in the spreadsheet as having other insurance; and customers who were identified as having business use insurance whose applications stated that they did not make business use of their vehicles. Plaintiffs shall notify the Court if further action needs to be taken in this regard.

6. Defendants shall request a copy of the loan application from Morgan Stanley.
7. Defendants shall produce copies of any notes evidencing indebtedness of Red Rock Investment Company to private lenders. Defendants may redact the names and any other personally identifying information of the lenders. If Steve Gurley or any other owner of Defendants is among the lenders to Red Rock, the Defendants shall produce such note without redaction except as to social security number.

It is further ordered that Defendants shall produce when they are available the 2015 end of year financials for Gurley Motor Company and Red Rock Investment Company.

It is further ordered that Defendants shall continue to produce monthly financial reports for Gurley Motor Company and Red Rock Investment Company until the time of trial.

Any other matter raised in Plaintiffs' Motion to Compel not specifically addressed in this Order is denied.

Plaintiffs' motion for sanctions is denied.

IT IS SO ORDERED.


UNITED STATES MAGISTRATE JUDGE

Approved as to form:

/s/ Nicholas Mattison

Nicholas Mattison

Richard N. Feferman

Feferman & Warren, Attorneys for Plaintiff

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